

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

Status of Claims:

No claims are currently being added, canceled or amended.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1, 3-8, 10-18, 20-27 and 29-38 remain pending in this application.

Request for entry of after-final Amendment and Reply:

It is respectfully requested that this after-final Reply be considered and entered, since no new issues requiring further consideration and/or search are being presented.

Clarification re: Submission of Certified Copy of Priority Document:

Applicant notes that the Office Action Summary for the first Office Action has a checkmark next to box 12 and box 12a, indicating that an acknowledgement of Applicant's Claim for Priority has been made by the PTO. However, that Office Action Summary did not include a checkmark next to box 12a1, which should have been made to indicate that a certified copy of the priority document was received by the PTO. Such an acknowledgement is requested in the next PTO correspondence. It is noted that the current (second) Office Action has no checkmarks next to boxes 12, 12a and 12a1.

Claim Rejections – Prior Art:

In the Office Action, claims 1-3, 8-10, 18-20, 27-29 and 35-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,948,040 to DeLorme et al.; claims 21 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme et al.; claims 5-7, 12-17, 24-26 and 32-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme et al. in view of U.S. Patent No. 6,639,550 to Knockheart et al.; and claims 4, 11, 22-23 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme et al. in view of U.S. Patent No. 6,336,072 to Takayama et al. These

rejections are traversed with respect to the presently pending claims under rejection, for at least the reasons given below.

In its rejection of claim 1, the Office Action asserts that column 29, lines 28-30 of DeLorme discloses the features of ‘specifying if information has been used’ recited in this claim. Applicant respectfully disagrees. In claim 1, a specifier comprises an input device provided on the wireless terminal in which operation of the input device by the user when the distribution data is provided on a display of the wireless device signifies the presence of use of the distribution data, and non-operation of the input device by the user when the distribution data is provided on the display of the wireless device signifies the absence of use of the distribution data.

Column 29, lines 28-30 of DeLorme et al., on the other hand, merely describes software for routing that facilitates input of a user’s proposed initial departure point or START and proposed final destination or FINISH, in order to compute one or more optimal routes according to user selected parameters. This user-inputted data described in DeLorme et al. has nothing at all to do with a user ‘tagging’ whether or not he/she actually used distribution data provided to his/her wireless terminal by a data distributor over a network.

The “Response to Arguments” section of the Office Action asserts that column 29, lines 28-30 of DeLorme et al. “identifies that a users location is identified by a GPS or equivalent/alternative means. The satellite signals defining location are automatically identified when employing the use of the GPS. Applicant does not specify steps in which location is identified.” In response to these comments made in the Office Action, claim 1 specifically recites that a user performs an action, by operating an input device, in order to signify the presence or absence of use of the distribution data. The fact that a wireless device is automatically receiving GPS signals from a GPS satellite has nothing at all to do with a user performing an input operation via an input unit, to signify presence or absence of use of distribution data. Rather, the ‘automatic’ position determination features of DeLorme et al. teach away from the user-required-input features of claim 1.

The fact that Applicant does not specify steps in which location is identified is not pertinent, since it is the requirement that the user operate an input unit to indicate presence or absence of use of distribution data which is important in claim 1, whereby such features are not disclosed or suggested by DeLorme et al.

Accordingly, presently pending independent claim 1 is not anticipated by DeLorme et al.

Similarly, claim 3 has been amended to place that claim in independent form, whereby the claimed “place specifier” and features associated therewith are not disclosed or suggested by DeLorme et al.

Again, like claim 1, claim 3 recites that the place specifier comprises an input device in which operation of the input device by the user signifies the presence of use of the distribution data, and non-operation of the input device by the user signifies absence of use of the distribution data.

The fact that DeLorme et al. describes that GPS data is automatically received by a wireless unit at all times, does not meet the features recited in claim 3, since the ‘automatic’ position determination features of DeLorme et al. teach away from the user-required-input features of claim 3.

Each of the other presently pending independent claims has been amended in a manner similar to either claim 1 or claim 3, and thus those claims are also not disclosed or suggested by DeLorme et al.

With respect to dependent claims 21 and 30, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme et al., the Office Action correctly recognizes that DeLorme et al. fails to teach the calculation of a tolerance, but incorrectly asserts that it would have been obvious that if the management system is finding a dining option that still allows the traveler to meet their flight that a calculation is taking place to determine if the time difference between the current time and the time need to make the flight allow for the dining.

This assertion made in the Office Action does not appreciate the specific features recited in claims 21 and 30, with the tolerances being based in part on a particular mode of travel being used by the user. In particular, if a user is currently traveling by train, the tolerance may be 5 minutes, and if the user is currently traveling by bus, the tolerance may be 15 minutes. Such use of different tolerances based on different modes of travel by the user is not disclosed, taught or suggested by DeLorme et al., and certainly is not obvious to one skilled in the art based on the teachings of DeLorme et al.

In numbered paragraph 17) of the Office Action, it correctly recognizes that DeLorme fails to teach calculation of a tolerance, but incorrectly asserts that DeLorme's management system performs some type of tolerance calculation to determine a time difference between the current time and the time needed to make the flight. While DeLorme's management system does determine whether or not a dining option can be fit within a schedule of a user, there is no disclosure or suggestion of calculating tolerances that are based on a particular mode of travel being used by the user. The fact that DeLorme may schedule a 1-hour dinner for a user who has a flight scheduled for 2 hours from now, whereby the user has a 30 minute trip time to get to the airport, does not disclose or suggest the use of tolerances in determining whether or not the 1-hour dinner can actually be fitted into the user's schedule.

Accordingly, dependent claims 21 and 30 are patentable due to these additional reasons, beyond those given above with respect to their respective base claims.

With respect to the rejection of dependent claims 12-14 based in part on the teachings of Knockheart, Knockheart is directed to a system that detects when a vehicle operator has deviated from a planned route, and that replans a new route to the destination using an in-vehicle map database. While column 23, lines 31-38 of Knockheart describes the use of tolerances that correspond to allowable disparity between a GPS and a dead reckoning location estimate, this has nothing at all to do with the claimed tolerances that are used to notify a user of new distribution data, but rather are related to recomputing a vehicle location due to the aging of GPS data. That is, Knockheart's use of tolerances are to precisely compute a vehicle location, and are not utilized to determine how early in time to provide updated route information to a vehicle operator. Also, column 3, lines 38-42 of Knockheart, as cited in the Office Action, merely describes that the tolerance distance can be increased or decreased as the vehicle travels along a path, whereby this disclosure of Knockheart does not teach or suggest how early in time to provide updated route information to a vehicle operator.

In more detail, dependent claims 12-14 recite that the tolerance calculator calculates the time tolerances by multiplying predetermined tolerances based on kinds of transport means for arriving at respective places by respective factors determined according to time bands of moving and by subtracting the time tolerances from respective arrival times for particular reference places obtained from the schedule table in order to determine updated arrival times for the particular reference places.

Knockheart's use of tolerances does not meet the requirements set forth in the specific computation of predetermined tolerances based on kinds of transport means as recited in claims 12-14. The Office Action appears to ignore these features recited in claims 12-14, by simply arguing that Knockheart's use of tolerances meets the features recited in these claims. Applicant strongly disagrees, and requests that the PTO specifically point out where in Knockheart the multiplying predetermined tolerances based on kinds of transport means feature is described in that reference, or otherwise withdrawn the rejection of these claims.

Accordingly, dependent claims 12-14 are patentable for these additional reasons, beyond the reasons given above with respect to their respective base claims.

Lastly, the statements made on page 8 of the Office Action concerning "Apparatus claims should cover what a device is or structures or structural elements, not what a device does", is not readily understood, since the claims recite different elements each performing particular operations or functions. The examples provided in numbered paragraph 27) of the Office Action are not present in the claims, and it is unclear which parts of the claims are not given any patentable weight by the Examiner. Clarification is requested from the Examiner in this regard.

Conclusion:

Since all of the issues raised in the Office Action have been addressed in this Reply, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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